IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 310 of 2005
In
SPECIAL CIVIL APPLICATION No. 9566 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)

Versus

KANTIBHAI MANGABHAI MARU - Respondent(s)

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Appearance :
MR ASHISH M DAGLI for Appellant(s) : 1,
RULE SERVED for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL

Date : 28/09/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

Heard learned counsel Shri Dagli for the appellant. Though served, the respondent is not present. In his absence, Mr. Dagli has taken us through the impugned

judgment and award passed by the Industrial Tribunal partly accepting the reference and reducing the punishment of the respondent – workman of placing him on his original salary in the post of Helper to a fine of Rs.1,000/- only which was to be deducted from his salary by 10 equal instalments of Rs.100/- per month.

2. When the Industrial Tribunal exercised its discretion under Section 11(A) of the Industrial Disputes Act in favour of the respondent – workman, then ordinarily, this court does not interfere with such a discretionary order. In the instant case, the impugned judgment and award passed by the Labour Court was challenged by the appellant - Corporation by way of Special Civil Application No.9566 of 2003, which was dismissed on 1st August, 2003 by P.B. Majmudar, J. by a brief order which is as under:-

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of Order: 01/08/2003

ORAL ORDER

No ground is made out for interference with the impugned order in this petition, and, hence this petition is

rejected.

3. When the learned Single Judge of this court refused to exercise his writ jurisdiction under Article 227 of the Constitution in favour of the petitioner – Corporation, at first instance, present appeal before this court would not be maintainable. When the learned Single Judge refused to exercise his jurisdiction under Article 227 then, even if appeal was maintainable, then also there is no question of interference with such order by this court in the Appeal. In view of the above, this appeal is dismissed with no order as to costs.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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